



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,417	07/19/2001	Charles B. Duke	56261-00001F6	2645

7590 12/05/2003

Peter F Weinberg
Gibson Dunn & Crutcher
Suite 4100
1801 California St
Denver, CO 80202

EXAMINER

NGHIEM, MICHAEL P

ART UNIT	PAPER NUMBER
----------	--------------

2863

DATE MAILED: 12/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/910,417

Applicant(s)

DUKE ET AL.

Examiner

Michael P Nghiem

Art Unit

2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2003 and 22 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The ^{proposed} drawing(s) filed on 02 October 2002 and 22 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- ☐ Interview Summary (PTO-413) Paper No(s). _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

The Amendments filed on June 11, 2003 and September 22, 2003 have been acknowledged.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Kotaki et al. (US 5,619,239).

Kotaki et al. discloses all the claimed features of the invention including:

- an ink printer cartridge (Fig. 4) for use in an ink printer (Figs. 17's) having a printhead (201) having an interior surface (interior surface of 103) and a camming shoe (105a) extending downward from the interior surface (Fig. 7), the camming shoe having a pressing means (105b) which includes a series of vertically oriented spaced tabs (Figs. 12's) having clear spaces therebetween (Fig. 12b), the ink printer cartridge comprising:

- a base (bottom wall of 21) and a lid (top wall of 21) attached to the base, the lid having at least one protrusion (left protrusion on top wall of 21) extending upward from the lid (Fig. 4) so that when the base is fully inserted within the printhead, the protrusion engages the printhead interior surface and no part of the base engages the camming shoe (Figs. 4-10);

- the at least one protrusion is two protrusions (two protrusions on top of top wall of 21, Fig. 4);

- the ink printer cartridge lid has a primary surface (surface of top wall of 21) which, when the cartridge is engaged with the printhead, is beneath the vertical tabs of the camming shoe (Fig. 10) so that there is clear space between the ink printer cartridge primary surface and the camming shoe (Fig. 10 in view of Fig. 12b), and the at least one protrusion is offset from the vertical tabs of the pressing means (protrusion is between 105a, Fig. 9 in view of Fig. 12b) and has a sufficient length so that it contacts the printhead interior surface (protrusion contacts interior surface of 103, Fig. 9).

Response to Arguments

2. Applicant's arguments filed on June 11, 2003 have been fully considered but they are not persuasive.

With respect to the 35 USC 102 rejections, Applicants argue that the distinction between the pending claims and Kotaki is that "the protrusion engages the printhead

interior surface and no part of the protrusion, base, or lid engages the camming shoe”.

In Kotaki, the protrusion (left side of 21) engages the camming shoe (see Fig. 10).

Examiner’s position is that even though the protrusion engages the camming shoe

(105a), no part of the base (bottom wall of 21) engages the camming shoe (Figs. 4-10).

Thus, Kotaki teaches “... no part of the protrusion, base, **or** lid engages the camming shoe”.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Contact Information

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Nghiem whose telephone number is (703) 306-3445. The examiner can normally be reached on M-H from 6:30AM – 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached at (703) 308-3126. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7724 for regular communications and (703) 308-5841 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



**MICHAEL NGHIEM
PRIMARY EXAMINER**

Michael Nghiem

December 4, 2003